

REMARKS

By way of this amendment, independent claims 1, 29, 36 and 41 have been amended to recite with greater clarity that the inventive drug is a “salicylate”. Support for this amendment is found in the specification at page 25, lines 5-15, and the claims as filed. As such, it is submitted that no new matter has been added by way of this amendment.

Currently, claims 1, 29, 36 and 41 stand rejected under 35 U.S.C. §112, second paragraph, in regard to “analog” being indefinite. In response to this rejection, this phrase has been deleted from the corresponding claims and, as such, this rejection is submitted to have been overcome. Additionally, claims 1, 5-7, 29, 30, 32-36 and 38-40 stand rejected under 35 U.S.C. §103(a) over Grilli et al. (WO 98/20864) in view of Eisenbach-Schwartz et al. (U.S. 6,126,939). Lastly, claims 4, 31, 37 and 41 stand rejected under 35 U.S.C. §103(a) over Grilli et al. and Eisenbach-Schwartz et al. and further in view of McGeer et al. (U.S. 5,192,753).

**Remarks Directed to Rejection of Claims 1, 5-7, 29, 30, 32-36 and 38-40
Under 35 U.S.C. §103(a) over Grilli et al. in View of Eisenbach-Schwartz et al.**

Applicant submits that the pending independent claims 1, 29 and 36 and those that depend therefrom are now nonobvious over Grilli et al. in view of Eisenbach-Schwartz et al. on the basis that the prior art reference combination lacks a motivation for the combination and in fact fails to afford the claimed invention.

Grilli et al. teaches sodium salicylate and salicylamide as drugs for the treatment of neuronal damage associated with Alzheimer’s disease. It lacks a specific teaching as to delivery by intrathecal catheter. (Paper No. 20050210, page 3, last paragraph). Eisenbach-Schwartz et al. is cited to bolster the teaching of Grilli et al. through a teaching of catheter administration (citing column 4, lines 51-56; column 6, lines 16-25; column 13, lines 46-63). (Paper No. 20050210,

page 4, first paragraph). The basis of the rejection is that it would have been obvious to one of ordinary skill in the art to deliver the compounds as taught by Grilli et al. with an intraventricular or intrathecal catheter per Eisenbach-Schwartz et al.

Applicant submits that the reliance on Eisenbach-Schwartz et al. to bolster the teaching of Grilli et al. is misplaced. As an initial matter, Eisenbach-Schwartz et al. exclusively pertains to peptide compositions and not salicylates as per the pending claims. At column 4, lines 51-56, as cited in the outstanding Office Action, this reference only recognizes that peptide compositions may be used for non-steroidal anti-inflammatory activity and lacks any teaching as to delivery by intrathecal catheter as recited in the pending claims. Eisenbach-Schwartz et al. at column 6, lines 16-25 merely recites that the inventive peptides are indicated for a variety of diseases and lacks any teaching as to delivery by intrathecal catheter as recited by the pending claims. Eisenbach-Schwartz et al. at column 13, lines 46-63, recites:

Various delivery systems are known and can be used to administer a peptide, peptide derivative or a composition of the invention. ... the pharmaceutical compositions of the invention can be introduced into the central nervous system by any suitable route including intraventricular and intrathecal injection, etc. Intraventricular injection may be facilitated by an intraventricular catheter, for example, attached to a reservoir, such as an Ommaya reservoir.

In light of the claim amendments specifying that the drug is a salicylate, the teaching of Eisenbach-Schwartz et al. with regard to administration of a peptide is submitted to be lacking as to delivery of a salicylate drug. Additionally, Eisenbach-Schwartz et al. provides no motivation for delivery of an inventive drug by intrathecal catheter. Indeed, in Example 7 of Eisenbach-Schwartz et al. (column 16, line 42 – column 17, line 27) that deals with acute encephalitis and

represents an ideal opportunity to use an intraventricular catheter, Eisenbach-Schwartz et al. declines to do so and rather teaches the use of intraperitoneal injection.

Additionally, Applicant submits that Eisenbach-Schwartz et al. fails to provide a teaching as to an **intrathecal** catheter per independent claims 1 and 29. Rather, this reference contemplates an **intraventricular** catheter such as an Ommaya reservoir (column 13, lines 46-63). An intraventricular catheter is threaded into a cerebral ventricle through a borehole in the skull. In contrast, an intrathecal catheter is intraspinal. Eisenbach-Schwartz et al. is silent as to delivery by an intrathecal catheter and as such, it is submitted that this reference cannot bolster Grilli et al. with respect to the inventive mode of delivery.

Since the pending claims include limitations not found in the prior art with regard to intrathecal delivery of a salicylate non-steroidal, anti-inflammatory drug, it is submitted that these claim limitations be accorded patentable weight.

In view of the above amendments and remarks, reconsideration and withdrawal of the rejection as to pending claims 1, 5-7, 29, 30, 32-36 and 38-40 under 35 U.S.C. §103(a) over Grilli et al. in view of Eisenbach-Schwartz et al. is solicited.

**Remarks Directed to Rejection of Claims 4, 31, 37 and 41
Under 35 U.S.C. §103(a) Over Grilli et al. in View of
Eisenbach-Schwartz et al. and Further in View of McGeer et al.**

Applicant submits that this rejection is improper for the reasons detailed above. Applicant hereby incorporates by reference the above remarks with regard to the deficiencies of Eisenbach-Schwartz et al. McGeer et al. fails to bolster Eisenbach-Schwartz et al. with regard to the limitations detailed above. Additionally, claims 4, 31 and 37 are submitted to be patentable as a result of dependency from an allowable base claim.

On the basis of the above amendments and remarks, reconsideration and withdrawal of the rejection as to claims 4, 31, 37 and 41 under 35 U.S.C. §103(a) over Grilli et al. in view of Eisenbach-Schwartz et al. and further in view of McGeer et al. is solicited.

Summary

Claims 1, 4-7 and 29-41 are the claims pending in this application. Each claim is believed to be in proper form and directed to allowable and patentable subject matter. Reconsideration and allowance of the claims is requested. Should the Examiner find to the contrary, he is respectfully requested to contact the undersigned attorney in charge of this application to resolve any remaining issues.

Respectfully submitted,



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